



Justin Lonergan
Nick Mirr
601 West Riverside Ave, Suite 900
Spokane, Washington 99201
509.624.7606
Attorneys for Andrei S. Borgheriu

UNITED STATES DISTRICT COURT
Honorable Stanley A. Bastian

United States,

Plaintiff,

V.

Andrei S. Borgheriu,

Defendant.

No. 4:22-cr-06040-SAB-1

Motion in Limine – Government Argument re: Interest Rates

I. SUMMARY

Mr. Borgheriu moves the Court, based on its *Order Granting United States' Motion to Exclude* (ECF No. 100), to exclude the United States from presenting any testimony or argument that describes or explains the Economic Injury Disaster Loan as a “low-interest” loan. *See* ECF No. 74, *United States' Trial Brief*, pg. 2 (“One source of relief was the Small Business Administration’s EIDL program, which provided low-interest loans to small businesses”); *see also* ECF No. 26, *Notice of Intent to Use Expert Testimony*, pg. 2 (“Mr. Brown will testify that in the context of the COVID-19 Pandemic, an EIDL is a low-interest [...] loan”).

In the Court's *Order* excluding Ms. McHard's proposed testimony that a personal mortgage could have been *cheaper than an EIDL*, the Court determined:

Finally, whether the EIDL may have been more expensive for Defendant than other types of financing available to purchase the property is not relevant nor helpful to the jury in determining whether Defendant committed fraud.

See *ECF No. 100.*

This conclusion requires that characterization of interest rates as “low” be taken off the table entirely. To hold otherwise would be to permit the government to present speculative argument of motive or opportunity, but deny the defense the opportunity to rebut the same (i.e., through Ms. McHard’s testimony). While Mr.

1 Borgheriu understands the Court's concerns in its *Order*, the downstream impact of
2 the *Order* results in allowing only the prosecution to talk about interest rates, denying
3 Mr. Borgheriu his constitutional right to confront the United States' case.

4 As such, the Court must enter a further order clarifying that any characterization
5 of interest rates is off limits to both parties.

6 Dated: January 15, 2025.

7
8 Federal Defenders of Eastern Washington & Idaho
9
10 Attorneys for Mr. Borgheriu

11
12 s/Justin Lonergan
13 Justin P. Lonergan, WSBA No. 55216
14 601 West Riverside Ave, Suite 900
15 Spokane, Washington 99201
16 t: (509) 624-7606
17 f: (509) 747-3539
18 Justin_Lonergan@fd.org
19

SERVICE CERTIFICATE

I certify that on January 15, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which will serve all counsel of record.

s/Justin Lonergan
Justin P. Lonergan, WSBA No. 55216
601 West Riverside Ave, Suite 900
Spokane, Washington 99201
t: (509) 624-7606
f: (509) 747-3539
Justin_Lonergan@fd.org